

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

**RC PETITION**

**DO NOT WRITE IN THIS SPACE**

Case No. **12-RC-180802**

Date Filed **7/25/2016**

**INSTRUCTIONS: Unless e-Filed using the Agency's website, [www.nlr.gov](http://www.nlr.gov), submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.**

**1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE** - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. **The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.**

<b>2a. Name of Employer</b> Fresh Point South Florida		<b>2b. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code)</b> 2300 NW 19th St Pompano Beach FL 33069	
<b>3a. Employer Representative - Name and Title</b> Alan Lieberman		<b>3b. Address (If same as 2b - state same)</b> 2300 NW 19th St Pompano Beach FL 33069	
<b>3c. Tel. No.</b> (954) 917-7272	<b>3d. Cell No.</b> (b) (6), (b) (7)(C)	<b>3e. Fax No.</b> (954) 917-7550	<b>3f. E-Mail Address</b> alan.lieberman@freshpoint.com
<b>4a. Type of Establishment (Factory, mine, wholesaler, etc.)</b> Transportation		<b>4b. Principal product or service</b> Delivery of Produce	
		<b>5a. City and State where unit is located:</b> Pompano Beach, FL	

<b>5b. Description of Unit Involved</b>		<b>6a. No. of Employees in Unit:</b> 100
<b>Included:</b> See Attached Page 2 for additional details		<b>6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></b>
<b>Excluded:</b> See Attached Page 2 for additional details		

**Check One:** ☒ **7a.** Request for recognition as Bargaining Representative was made on (Date) \_\_\_\_\_ and Employer declined recognition on or about \_\_\_\_\_ (Date) (If no reply received, so state).  
☐ **7b.** Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

<b>8a. Name of Recognized or Certified Bargaining Agent (If none, so state).</b>		<b>8b. Address</b>	
<b>8c. Tel No.</b>	<b>8d Cell No.</b>	<b>8e. Fax No.</b>	<b>8f. E-Mail Address</b>
<b>8g. Affiliation, if any</b>		<b>8h. Date of Recognition or Certification</b>	<b>8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)</b>

**9.** Is there now a strike or picketing at the Employer's establishment(s) involved? \_\_\_\_\_ If so, approximately how many employees are participating? \_\_\_\_\_  
(Name of labor organization) \_\_\_\_\_, has picketed the Employer since (Month, Day, Year) \_\_\_\_\_.

**10.** Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state)

<b>10a. Name</b>	<b>10b. Address</b>	<b>10c. Tel. No.</b>	<b>10d. Cell No.</b>
		<b>10e. Fax No.</b>	<b>10f. E-Mail Address</b>

**11. Election Details:** If the NLRB conducts an election in this matter, state your position with respect to any such election.

<b>11b. Election Date(s):</b> 8/18/2016	<b>11c. Election Time(s):</b> 8:30am to 12:30pm & 1:30pm to 5:30pm	<b>11a. Election Type:</b> <input checked="" type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail
<b>11d. Election Location(s):</b> Big or Main Conference Room & Fort Myers Facility		<b>12b. Address (street and number, city, state, and ZIP code)</b> 12365 Dixie Highway Miami FL 33161

**12a. Full Name of Petitioner (including local name and number)**  
Edwin Vasquez  
Teamsters Local 769 aff with International Brotherhood of Teamsters

<b>12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state)</b> International Brotherhood of Teamsters			
<b>12d. Tel No.</b> (305) 642-6255	<b>12e. Cell No.</b> (561) 707-6167	<b>12f. Fax No.</b> (305) 891-5896	<b>12g. E-Mail Address</b> ervasquez01@yahoo.com

**13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.**

<b>13a. Name and Title</b>		<b>13b. Address (street and number, city, state, and ZIP code)</b>	
<b>13c. Tel No.</b>	<b>13d. Cell No.</b>	<b>13e. Fax No.</b>	<b>13f. E-Mail Address</b>

**I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.**

<b>Name (Print)</b> Edwin Vasquez	<b>Signature</b> Edwin Vasquez	<b>Title</b> Organizer	<b>Date</b> 07/25/2016 16:55:50
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**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Attachment

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### Employees Included

Transportation employees including Drivers, Drivers Helpers, Cruise Ship Drivers, Fort Myers Drivers, Fort Myers Shuttle Drivers & Backhaul Drivers

### Employees Excluded

All other workers, guards and supervisors as defined by the Act.

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 12

FRESHPOINT SOUTH FLORIDA, LLC

Employer

and

Case 12-RC-180802

TEAMSTERS LOCAL UNION 769 A/W THE  
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Petitioner

TYPE OF ELECTION: STIPULATED

CERTIFICATION OF REPRESENTATIVE

An election has been conducted under the Board's Rules and Regulations. The Tally of Ballots shows that a collective-bargaining representative has been selected. No timely objections have been filed.

As authorized by the National Labor Relations Board, it is certified that a majority of the valid ballots has been cast for Teamsters Local Union 769 a/w the International Brotherhood of Teamsters and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

Unit:

All full-time and regular part-time drivers, driver-helpers, cruise ship drivers, shuttle drivers and back-haul drivers employed by the Employer at its facilities currently located at 2300 NW 19<sup>th</sup> Street, Pompano Beach, Florida and 2950 Cargo Street, Fort Myers, Florida excluding: all other employees, office clerical employees, professional employees, guards and supervisors as defined by the Act.



September 9, 2016

  
Margaret J. Diaz, Regional Director  
National Labor Relations Board, Region 12  
201 E. Kennedy Blvd., Suite 530  
Tampa, Florida 33602

Attachment: Notice of Bargaining Obligation

## NOTICE OF BARGAINING OBLIGATION

In the recent representation election, a labor organization received a majority of the valid votes cast. Except in unusual circumstances, unless the results of the election are subsequently set aside in a post-election proceeding, the employer's legal obligation to refrain from unilaterally changing bargaining unit employees' terms and conditions of employment begins on the date of the election.

The employer is not precluded from changing bargaining unit employees' terms and conditions during the pendency of post-election proceedings, **as long as** the employer (a) gives sufficient notice to the labor organization concerning the proposed change(s); (b) negotiates in good faith with the labor organization, upon request; and (c) good faith bargaining between the employer and the labor organization leads to agreement or overall lawful impasse.

This is so even if the employer, or some other party, files objections to the election pursuant to Section 102.69 of the Rules and Regulations of the National Labor Relations Board (the Board). If the objections are later overruled and the labor organization is certified as the employees' collective-bargaining representative, the employer's obligation to refrain from making unilateral changes to bargaining unit employees' terms and conditions of employment begins on the date of the election, not on the date of the subsequent decision by the Board or court. Specifically, the Board has held that, absent exceptional circumstances,<sup>1</sup> an employer acts at its peril in making changes in wages, hours, or other terms and conditions of employment during the period while objections are pending and the final determination about certification of the labor organization has not yet been made.

It is important that all parties be aware of the potential liabilities if the employer unilaterally alters bargaining unit employees' terms and conditions of employment during the pendency of post-election proceedings. Thus, typically, if an employer makes post-election changes in employees' wages, hours, or other terms and conditions of employment without notice to or consultation with the labor organization that is ultimately certified as the employees' collective-bargaining representative, it violates Section 8(a)(1) and (5) of the National Labor Relations Act since such changes have the effect of undermining the labor organization's status as the statutory representative of the employees. This is so even if the changes were motivated by sound business considerations and not for the purpose of undermining the labor organization. As a remedy, the employer could be required to: 1) restore the status quo ante; 2) bargain, upon request, with the labor organization with respect to these changes; and 3) compensate employees, with interest, for monetary losses resulting from the unilateral implementation of these changes, until the employer bargains in good faith with the labor organization, upon request, or bargains to overall lawful impasse.

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<sup>1</sup> Exceptions may include the presence of a longstanding past practice, discrete event, or exigent economic circumstance requiring an immediate response.